

Farm Service Agency, USDA

§ 718.203

farm are not being operated as a single farming unit;

(6) An owner of a farm, constituted as a single farming unit prior to 1978, which is comprised of land located in two or more counties for which there is a quota or allotment established for such farm and such quota or allotment is subject to lease and transfer restrictions across county lines, requests in writing that the farm be reconstituted by dividing the tracts. The resulting farms shall be administratively serviced by the county office serving the county in which the land is geographically located; or

(7) Land is sold for or devoted to non-agricultural commercial or industrial uses; however, a reconstitution is not required and allotments, quotas and acreages may remain with the farm if either of the following apply:

(i) The land is already devoted to residential, recreational, industrial or commercial buildings; or

(ii) The owner would qualify to use the landowner designation method of division in accordance with § 718.205 or the allotments and quotas can be transferred by sale or owner in accordance with this part and parts 723 or 729 of this chapter and the owner of the parent farm and the purchaser file a signed written memorandum of understanding before Form FSA-476 or Form MQ-24 is issued, stating that the land will be devoted immediately or within 3 years to:

(1) Nonagricultural commercial uses; or

(2) Recreational, residential, industrial or non-farm commercial uses.

(d) Notwithstanding the provisions of paragraphs (c)(1) through (c)(7), a reconstitution shall not be approved if the county committee determines that the primary purpose of the reconstitution is to:

(1) Circumvent the provisions of part 12 of this title; or

(2) Circumvent any other chapter of this title.

§ 718.202 Determining the land constituting a farm.

(a) In determining the constitution of a farm, consideration shall be given to provisions such as ownership and operation. For purposes of this part, the

following rules shall be applicable to determining what land is to be included in a farm.

(b) A minor shall be considered to be the same owner or operator as the parent or court-appointed guardian (or other person responsible for the minor child) unless:

(1) The minor child is a producer on a farm;

(2) Neither the minor's parents nor guardian has any interest in the minor's farm or production from the farm;

(3) The minor establishes and maintains a separate household from the parent or guardian;

(4) Personally carries out the farming activities in the operation; and

(5) Maintains a separate accounting for the farming operation.

(c) Notwithstanding paragraph (b) of this section, a minor shall not be considered to be the same owner or operator as the parent or court-appointed guardian if the minor's interest in the farming operation results from being the beneficiary of an irrevocable trust and ownership of the property is vested in the trust or the minor.

(d) A life estate tenant shall be considered to be the owner of the property for their life.

(e) A trust shall be considered to be an owner with the beneficiary of the trust; except a trust can be considered a separate owner or operator from the beneficiary, if the trust:

(1) Has a separate and distinct interest in the land or crop involved;

(2) Exercises separate responsibility for the separate and distinct interest; and

(3) Maintains funds and accounts separate from that of any other individual or entity for the interest.

§ 718.203 County committee action to reconstitute a farm.

Action to reconstitute a farm may be initiated by the county committee, the farm owner, or the operator with the concurrence of the owner of the farm. Any request for a farm reconstitution shall be filed with the county committee.